

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID M. MCDONOUGH,

Petitioner,

v.

JAMES A. YATES,

Respondent.

No. C 07-2469 MMC


**ORDER GRANTING MOTION FOR
CERTIFICATE OF APPEALABILITY;
ISSUING CERTIFICATE OF
APPEALABILITY**

Before the Court is petitioner David McDonough's Motion for Certificate of Appealability, filed October 21, 2011. Having read and considered petitioner's motion, the Court finds petitioner is entitled to a certificate of appealability on the following issue: whether it is a violation of the Ex Post Facto Clause, U.S. Const. art. I, § 9, cl. 3, to deny petitioner conduct credit in excess of 15% on time served, under California Penal Code § 2933.1, for offenses committed both before and after the enactment of said statute.

Accordingly, the Court hereby GRANTS the motion and ISSUES a certificate of appealability for the issue set forth above.

IT IS SO ORDERED.

Dated: October 26, 2011


MAXINE M. CHESNEY
United States District Judge